

**PHIFER WIRE PRODUCTS, INC.**

P. O. BOX 1788 - TUSCALOOSA, ALABAMA 36403-1700 U.S.A.

■ CHARLES E. MORGAN  
Executive Vice President and Corporate Counsel

May 3, 1993

Arizona Attorney General Office  
Consumer Information and Complaint Division  
Phoenix, Arizona  
FAX: 602/542-4579

RE: Media Allegations Regarding Phifer SunScreen® Brand Solar Screening

Dear Sir or Madam:

As you know from the public statement that I telefaxed to you on Friday, April 30, 1993, it is Phifer Wire's position that our SunScreens are not dangerous to consumers. The local Phoenix television news broadcasts claimed to rely upon scientific data which they "had obtained." This scientific data was freely made available to those stations by Phifer Wire Products and was ~~being~~ provided to any and all consumers, builders, window companies and utility companies in the Phoenix area by Phifer.

Phifer Wire would like to point out to you that those television broadcasts grossly misrepresented the scientific data which was provided to them prior to their broadcast. The two research studies referenced and supposedly relied upon by the television reporters were conducted by Dr. Robert G. Meeks at the University of Alabama and Dr. Clifton D. Crutchfield of Health Effects Group, Inc. and the University of Alabama in Tusculum. Please consider the following statements provided by those two researchers following their review of the recent television broadcasts.

If you would like more information on our products and their safety characteristics, every bit of data that we have is available to you and to any other member of the public. If you would like to further discuss the scientific data, please contact Dr. Robert G. Meeks (517/496-8629) and/or Dr. Clifton D. Crutchfield (602/882-5855 or 888 4442).

Sincerely yours,

PHIFER WIRE PRODUCTS, INC.

Charles E. Morgan  
Executive Vice President

CEM/le

cc: Dr. Robert G. Meeks  
Dr. Clifton D. Crutchfield

## **PUBLIC STATEMENT REGARDING SUNSCREEN®**

Phifer Wire Products experienced a manufacturing quality failure of our SunScreen solar screening in 1988 and 1989. Some SunScreens have experienced deterioration of the vinyl coating.

The manufacturing problem was corrected and since that time, Phifer Wire Products has attempted to locate and replace screens made from this defective material.

One characteristic of the deterioration has been the emission of a strong odor. These emissions have been thoroughly investigated by several independent toxicologists including Health Effects Group, Inc., of Tucson, Arizona. While the odors can be annoying, research has concluded that SunScreen poses no serious health or safety hazard.

Phifer Sun Control Products have been used successfully for almost 20 years with thousands of satisfied customers. The SunScreens will continue to be backed by our five-year warranty and our company's 40-year reputation for standing behind every product we manufacture.

A consumer toll-free hotline is available for anyone with questions about our product. The toll-free number is 1/800-874-3007.

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**PHIFER WIRE PRODUCTS INC.**

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35400-1700 U.S.A.

Phone: 205/345-2120 • Telex: 261326 (PHIF UR)

To: *Ms. Cathy Jarvis*  
Alabama Attorney General Office  
Consumer Information And  
Complaint Division

Fax No.: 602/542-4579

Date: 5/3/93

No. of Pages (Including Cover): 4

From: Charles Morgan

Fax No.: 205/758-6818

**FACSIMILE CORRESPONDENCE**

Please deliver to Ms. Cathy Jarvis  
as soon as possible

I look forward to meeting  
you, Ms. Hall and Mr. Hegyi  
at 2 o'clock.

*Charles Morgan*

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**PHIFER WIRE PRODUCTS, INC.**

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

Phone: 205/345-2120 • Telex: 281326 (PHIF UR)

To: Cathy Jarvis

Az. AG's Office

Fax No.: 602-542-4579

Date: 4/30/93

No. of Pages (Including Cover): 3

From: Charles Morgan

Fax No.: 205/758-6818

FACSIMILE CORRESPONDENCE

Our solar screening has 6 strands  
of yarn per group or cluster  
whereas our competitor's  
product has 7 strands. See  
following copy from sales  
brochure.

E.I.R. EXHIBIT 6

MFR

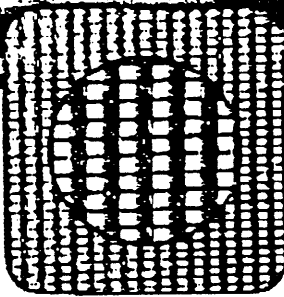
DATE

AZ State Govt

4/10/93

INSPECTOR

1367



# SUNSCREEN'S UNIQUE PATENTED WEAVE

10700/PHI  
BuyLine 1612

(U.S. Patent No. 4,002,188)

Phiferglass SunScreen is an open weave made of durable vinyl-coated fiberglass yarn. After weaving, SunScreen is heat-treated so as to ensure a stable and quality product.

SunScreen is manufactured exclusively by Phifer Wire Products, Inc.

more constant glass temperatures.

If a building is not designed to receive, store and distribute solar energy, sun coming through a window during the winter months may actually be of little or no value. Consequently, most building owners elect to leave solar screens in place year-round. However, framed SunScreen solar screens may be easily removed during winter months to allow full solar heat gain if desired.

**PAYS FOR ITSELF . . .** The savings in energy costs alone will usually pay for the installation of SunScreen in a few short years. Projected savings may be estimated by using ASHRAE standards along with SunScreen data on page six.

## PHYSICAL ATTRIBUTES OF SUNSCREEN

**BEAUTY AND PRIVACY . . .** During the daytime, SunScreen appears virtually opaque from the outside while permitting natural light and visibility for people on the inside.

**ATTRACTIVE BUILDING EXTERIORS . . .** SunScreen oftentimes enhances

building appearance, lending a look of architectural uniformity.

SunScreen is available in a variety of colors to harmonize with architectural designs.

**REDUCES FADING . . .** Penetration of ultraviolet radiation to the interior is significantly reduced.

**INSECT PROTECTION . . .** The mesh of Phiferglass SunScreen's unique weave is designed to replace regular insect screening. The openings in the mesh are small enough to stop even tiny insects.

**WORKS WITH WINDOWS OPEN OR CLOSED . . .** Since SunScreen is normally installed outside the window, it performs equally with windows open or closed . . . an important factor in summer months. The open mesh of SunScreen allows cool breezes to flow through.

**DOES NOT COME IN CONTACT WITH GLASS SURFACE . . .** SunScreen is installed inches away from the glass and not directly on the glass surface. SunScreen cannot cause cracking, bubbles or streaking sometimes associated with other sun-control products.

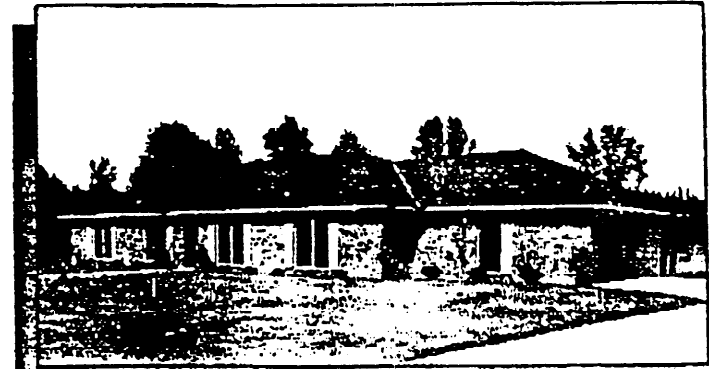
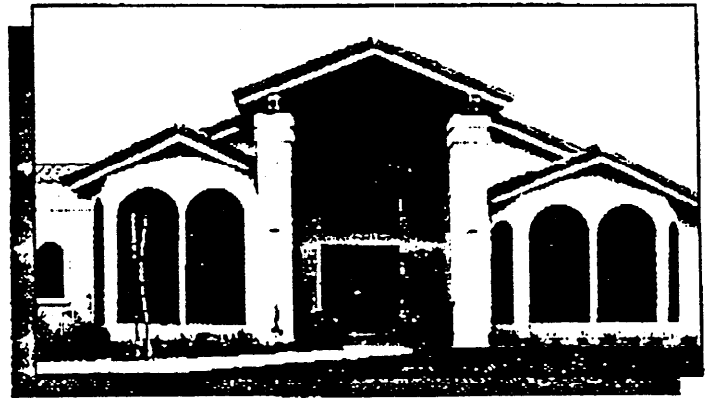
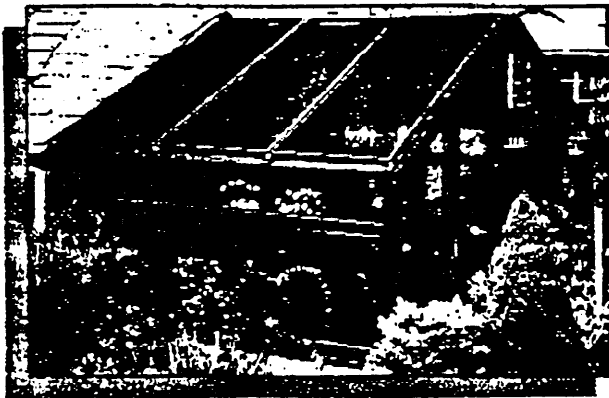
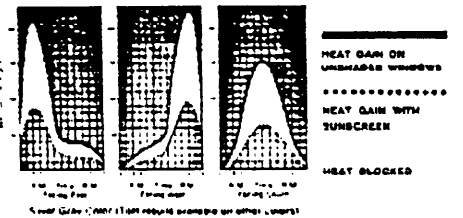
## REDUCES WINDOW WASHING . . .

SunScreen protects windows from dirt and rain streaks. Many users report time intervals between washings are greatly lengthened with SunScreen installed.

## SOLAR CONTROL PROPERTIES OF PHIFERGLASS SUNSCREEN™ TYPICAL

The charts below compare the amount of instantaneous solar heat gain between ordinary glass windows with SunScreen and those without. The shaded area between represents the heat blocked in BTU/hr/sq. ft.

The figures from these charts are based on 40° N. latitude (a line that would run approximately from Philadelphia to San Francisco).



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E.I.R. EXHIBIT <sup>#7</sup>

~~MFR~~

AZ State Govt

DATE 6/10/93

INSPECTOR John

OFFICE OF THE ATTORNEY GENERAL

CONSUMER INFORMATION AND COMPLAINTS

GRANT WOODS  
ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX, ARIZONA 85007-2926

(602) 542-5763  
(IN-STATE-ONLY) 1-800-352-8431

May 6, 1993

Department of Environmental Quality  
3033 N. Central Ave., 5th Floor  
Phoenix, AZ 85012  
Att: Byron James *207-4191*

RE: Phifer Wire Products

Dear Mr. James,

Enclosed are the cards we spoke of in our phone conversation.

Sincerely,

*Kathy Jarvis*

Kathy Jarvis  
Legal Assistant  
Consumer Information & Complaints  
542-3430  
542-4579-FAX

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CONSUMER INSPECTION REQUEST CARD

1. Who installed your SunScreen®? \_\_\_\_\_
2. When were your SunScreens installed? \_\_\_\_\_
3. If your SunScreen was in place when you purchased your home and you do not know the answers to questions 1 & 2, when was your home built and by whom? DATE: \_\_\_\_\_ BUILDER: \_\_\_\_\_
4. When did you first realize there might be a problem with your SunScreen?  
\_\_\_\_\_
5. What day and hour would be convenient for us to phone you to schedule an appointment to inspect your SunScreens? \_\_\_\_\_
6. Your Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
Phone No.: \_\_\_\_\_

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**PHIFER WIRE PRODUCTS, INC.**

P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

E.I.R. EXHIBIT

MFR

DATE

INSPECTOR

May 4, 1993

Mr. David Ronald  
Chief of Environmental Section  
Office of the Attorney General  
State of Arizona  
1275 West Washington  
Phoenix, Arizona 85007

RE: Phifer SunScreen®

Dear Mr. Ronald:

I am writing in regard to recent questions about odors emitted by our deteriorated solar screen material manufactured between January 1988 and July 1989. The material we manufactured during that 18-month period simply would not hold up in the Arizona sun.

By the time we recognized and corrected the problem, a substantial amount of material had been sold. In honoring our five-year warranty, we have replaced, free of charge, several hundred thousand square feet of this Sunscreen on several hundreds of homes in Arizona.

This replacement program has been going on continuously for over three years in cooperation with our Arizona dealers and distributors. We have a precise written program, approved by APS and SRP which tells our distributors how to identify defective SunScreen and offers them compensation, based upon a per square foot rate, for replacement of any and all defective material. The rate of compensation paid by Phifer for this warranty work is more than adequate to cover the distributor's cost of materials and labor plus a reasonable profit -- in fact, the rate of compensation is higher than paid for warranty work in any other market.

Our company philosophy is to do whatever is necessary to stand behind our product and satisfy our customers and we believe we have accomplished this objective in dealing with this problem. As a result of this policy, we have thousands of satisfied customers in Arizona.



Recently, sensationalized and inaccurate stories were broadcast on Phoenix television stations alleging that our products "emit toxic gases." One of the broadcasts showed three environmental research reports which, according to the broadcasts, supported their allegation. Two of the reports referenced were authored by Dr. Clifton D. Crutchfield of the Health Effects Group, Inc. of Tucson and the other by Dr. Robert G. Meeks, a toxicologist in the Department of Environmental Health Sciences at the University of Alabama in Birmingham. Both scientists were outraged by the misrepresentation of their research findings and have provided written statements refuting allegations of toxicity. Copies of these statements are enclosed for your review. These are not scientists Phifer hired after the fact to refute the news stories, but are the very scientists upon whose research the stories were supposedly based.

In 1991, one of our SunScreen dealers, John Edwards of Suntrol Window Products of Phoenix, became concerned about the odors emitted by the deteriorated SunScreen that had been replaced and stored in his shop. Large quantities of this material were being handled and stored in his enclosed warehouse. Some employees found the odor and dust coming from the product to be irritating. Phifer immediately employed Dr. Meeks to perform an independent analysis of the odor emitted by the degraded SunScreen. Dr. Meeks realized that more sophisticated equipment would be needed to accomplish a thorough analysis of these emissions and acquisition of the equipment delayed conclusion of his study.

In the meantime, John Edwards, without the consent or knowledge of Phifer Wire, selected and retained Dr. Crutchfield of the Health Effects Group of Tucson to conduct simultaneous parallel studies of similar material. Phifer Wire never had any contact with Dr. Crutchfield until long after his research was completed and his report had been submitted to John Edwards. Dr. Crutchfield did not know that the material studied had been manufactured by Phifer Wire.

Subsequent to the Meeks and Crutchfield studies, two more independent studies were conducted at the request of consumers concerned about the odor of deteriorating screening installed on the interior of their windows. These two studies examined the contents of air surrounding the screening in several homes. Envirocomp of Westfield, Massachusetts was selected by a consumer, without the advice, consent or knowledge of Phifer Wire. We have never had any direct contact with Envirocomp but received a copy of that report from our customer. That study found only common household chemicals "at very low levels, well below what would generally be considered a health hazard."

Phifer employed Clayton Environmental of Novi, Michigan to perform similar in-home testing in several homes. The results of the Clayton study contained in its April 13, 1993 report confirmed the Envirocomp findings and conclusions.

Complete copies of all four reports are enclosed. Since these reports are technical and difficult for a layman like myself to understand, three months ago I asked Dr. Crutchfield to go back and review his 1991 data, along with all subsequent research data, and to write a comprehensive summary report on the issue. I faxed a complete copy of his April 27, 1993 Summary Report to the Consumer Information and Complaints Division several days ago. I have also enclosed a complete copy of that report with this letter.

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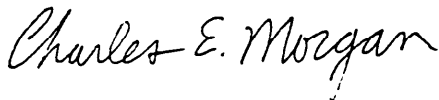
Our products have been analyzed from every angle by two firms retained by Phifer and by two independent organizations and all have concluded that there are no dangerous emissions. You are welcome to contact any of the research scientists who conducted these studies for further information. If you are not fully satisfied with the thoroughness or reliability of this body of data, Phifer Wire is willing to underwrite the expense of further testing in Arizona or anywhere else in the world. You can select the research facility and control all conditions of the testing.

We will conduct all the scientific tests that are required, but the best proof of the safety of our product is real life experience. We have been the leading solar screen provider in Arizona for over fifteen years with many thousands of customers. During those fifteen years, we have never received one direct complaint of any adverse health effects from exposure to our product. I heard of Mrs. Gertrude Kamuda, the consumer featured on a recent news broadcast, indirectly, through one of our SunScreen dealers, but it was my understanding we had replaced her SunScreen and satisfied her complaint. We still have not received a claim of any kind from Mrs. Kamuda so I have written her to ask what she would like Phifer to do at this time. A copy of my letter to Mrs. Kamuda is enclosed.

I hope this letter and the enclosed scientific data have addressed all your concerns on this matter. If not, we would be happy to meet with you at your convenience to discuss this further. I believe Dr. Crutchfield would be available to come up to Phoenix to meet with us, also. In the meantime, if there is any other information we can send you, please let me know.

Sincerely yours,

PHIFER WIRE PRODUCTS, INC.



Charles E. Morgan  
Executive Vice President

CEM/tem

Enclosures

cc: Ms. H. Leslie Hall

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**PHIFER WIRE PRODUCTS, INC.**  
P. O. BOX 1700 • TUSCALOOSA, ALABAMA 35403-1700 U.S.A.

E.I.R. EXHIBIT 9

~~VER~~ AZ State Govt  
DATE 6/21/93 INSPECTOR 374

May 4, 1993

Ms. Gertrude Kamuda  
8625 East Bellview #1115  
Scottsdale, Arizona 85257

Dear Ms. Kamuda:

I saw you on the Channel 3 News program the other night and was very sorry to hear about the respiratory problem that you had last year which you believe to be related to your Phifer SunScreen®. I heard of your problem last year from John Edwards, but I thought your SunScreen had been replaced and the problem resolved.

You may be pleased to read the two enclosed statements from Drs. Meeks and Crutchfield which unequivocally refute Channel 3's claim that our SunScreen "emits toxic gases". Please understand that I am not saying you are wrong in your belief that the odor of SunScreen affects your breathing adversely, I am only pointing out that the unanimous conclusion of all the scientific research is that SunScreen emits no chemicals that are harmful or toxic for most people. Every person is different -- some people suffer severe allergic reaction (even fatal reaction) from eating a peanut or drinking milk. Others lose consciousness when exposed to fumes from paints or common household chemicals.

I sincerely hope that the respiratory problem you suffered last year is gone for good. I believe John Edwards gave you copies of all the research reports on SunScreen emissions. If you would like additional information or there is anything else you feel we need to do at this time, please call me on my toll-free number (1-800-633-5955) or write me at the above address.

Sincerely yours,

PHIFER WIRE PRODUCTS, INC.

*Charles E. Morgan*

Charles E. Morgan  
Executive Vice President

CEM/tem

Steven Feola  
Paul M. Levine  
SMITH & FEOLA, P.C.  
2800 North Central Avenue  
Suite 1400  
Phoenix, Arizona 85004  
(602) 277-7473  
Attorneys for Plaintiffs  
State Bar No. 004197  
State Bar No. 007202

E.I.R. EXHIBIT

FILED

DATE

10  
AZ State Court  
9/10/93 INSPECTOR [Signature]

## IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

## IN AND FOR THE COUNTY OF MARICOPA

SUNTROL REFLECTIVE COATINGS, )  
INC., an Arizona corporation; )  
JOHN N. EDWARDS, a single man, )

No. CV 93-07517

Plaintiffs, )

NOTICE OF FILING  
RACKETEERING COMPLAINT

vs. )

PHIFER WIRE PRODUCTS, INC., )  
an Alabama corporation; )  
CHARLES MORGAN and JANE DOE )  
MORGAN, husband and wife; )  
DIANE GREEN, a single woman; )  
JOEL HARTIG, a single man; )  
ABC CORPORATIONS I-X; XYZ )  
PARTNERSHIPS I-X; JOHN DOES )  
I-L and JANE DOES I-L, )  
husbands and wives, )  
respectively, )

Defendants. )

Plaintiff, Suntrol Reflective Coatings, Inc., by and through  
its counsel undersigned, pursuant to A.R.S. § 13-2314(K), hereby  
gives notice of the filing of a Racketeering Complaint against  
Defendant Phifer Wire Products, Inc., an Alabama corporation.  
Plaintiff's counsel is Smith & Feola, P.C., 2800 North Central  
Avenue, Suite 1400, Phoenix, Arizona 85004. A copy of the Complaint  
has been served on the Attorney General with this notice.

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RESPECTFULLY SUBMITTED this 1 day of June, 1993.

SMITH & FEOLA, P.C.

*Paul M. Levine*

Paul M. Levine  
2800 North Central Avenue  
Suite 1400  
Phoenix, Arizona 85004  
Attorneys for Plaintiffs

Copy of the foregoing  
mailed this 1st day of  
June, 1993, to:

PHIFER WIRE PRODUCTS, INC.  
c/o Beverly C. Phifer  
4400 Kauloosa Avenue  
Tuscaloosa, Alabama 35401

Michael R. Palumbo, Esq.  
Jennings, Strouss & Salmon  
Two North Central, 16th Floor  
Phoenix, Arizona 85004-2393  
Attorneys for Defendants

Grant Wood  
Arizona Attorney General  
1275 West Washington Street  
Phoenix, Arizona 85007

*Rachelle Barnett*

SUNTROL\NOTICE.CPT/reb

Michael R. Palumbo - 006938  
 David B. Earl - 013820  
**JENNINGS, STROUSS & SALMON**  
 One Renaissance Square  
 2 North Central  
 Phoenix, Arizona 85004-2393  
 Telephone (602) 262-5911

Attorneys for Defendants

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

**IN AND FOR THE COUNTY OF MARICOPA**

SUNTROL REFLECTIVE  
 COATING, INC., an Arizona  
 corporation; JOHN N. EDWARDS,  
 a single man,

Plaintiffs,

v.

PHIFER WIRE PRODUCTS, INC.,  
 an Alabama corporation; CHARLES  
 MORGAN and JANE DOE  
 MORGAN, husband and wife;  
 DIANE GREEN, a single woman;  
 JOEL HARTIG, a single man; ABC  
 CORPORATIONS I-X; XYZ  
 PARTNERSHIPS I-X; JOHN DOES  
 I-L and JANE DOES I-L, husbands  
 and wives, respectively,

Defendants.

No. CV 93-07517

NOTICE OF FILING  
 RACKETEERING COUNTERCLAIM

(Assigned to the Hon.  
 Stanley Z. Goodfarb)

Defendant, Phifer Wire Products, Inc., by and through its counsel  
 undersigned, pursuant to A.R.S. § 13-2314(K), hereby gives notice of the filing of a  
 Racketeering Counterclaim against Plaintiffs, Suntrol Reflective Coatings, Inc. and John  
 N. Edwards. Defendant's counsel is Jennings, Strouss & Salmon, P.L.C., 2 North Central  
 Avenue, Phoenix, Arizona 85004-2393. A copy of the Answer and Counterclaim are  
 being served on the Attorney General with this notice.

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1 DATED this 4th day of June, 1993.

2 JENNINGS, STROUSS & SALMON

3  
4 By David B. Earl  
5 Michael R. Palumbo  
6 David B. Earl  
7 One Renaissance Square  
8 Two North Central  
9 Phoenix, Arizona 85004-2393  
10 Attorneys for Defendants

11 COPY of the foregoing hand-delivered this  
12 4th day of June, 1993 to

13 Hon. Stanley Z. Goodfarb  
14 Maricopa County Superior Court

15 and mailed this 4th day of June, 1993

16 Paul M. Levine, Esq.  
17 Smith & Feola  
18 2800 N. Central  
19 Suite 1400  
20 Phoenix, AZ 85004-1045  
21 Attorneys for Plaintiffs

22 Grant Wood  
23 Arizona Attorney General  
24 1275 West Washington Street  
25 Phoenix, AZ 85007

26 David B. Earl

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1 DATED this 4th day of June, 1993.

2 JENNINGS, STROUSS & SALMON

3  
4 By [Signature]

5 Michael R. Palumbo

6 David B. Earl

7 One Renaissance Square

8 Two North Central

9 Phoenix, Arizona 85004-2393

10 Attorneys for Defendants

11 COPY of the foregoing hand-delivered this  
12 4th day of June, 1993 to

13 Hon. Stanley Z. Goodfarb  
14 Maricopa County Superior Court

15 and mailed this 4th day of June, 1993

16 Paul M. Levine, Esq.  
17 Smith & Feola  
18 2800 N. Central  
19 Suite 1400  
20 Phoenix, AZ 85004-1045  
21 Attorneys for Plaintiffs

22 Grant Wood  
23 Arizona Attorney General  
24 1275 West Washington Street  
25 Phoenix, AZ 85007

26 [Signature]



1 Michael R. Palumbo - 006938  
2 David B. Earl - 013820 -  
3 JENNINGS, STROUSS & SALMON  
4 One Renaissance Square  
5 2 North Central  
6 Phoenix, Arizona 85004-2393  
7 Telephone (602) 262-5911

8 Attorneys for Defendant Phifer Wire  
9 Products, Inc.

10 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
11 IN AND FOR THE COUNTY OF MARICOPA

12 SUNTROL REFLECTIVE  
13 COATINGS, INC., an Arizona  
14 corporation; JOHN N. EDWARDS,  
15 a single man,

16 Plaintiffs,

17 vs.

18 PHIFER WIRE PRODUCTS, INC.,  
19 an Alabama corporation; CHARLES  
20 MORGAN and JANE DOE  
21 MORGAN, husband and wife;  
22 DIANE GREEN, a single woman;  
23 JOEL HARTIG, a single man; ABC  
24 CORPORATIONS I-X; XYZ  
25 PARTNERSHIPS I-X; JOHN DOES  
26 I-L and JANE DOES I-L, husbands  
and wives, respectively,

Defendants.

No. CV 93-07517

SEPARATE ANSWER AND  
COUNTERCLAIM OF PHIFER  
WIRE PRODUCTS, INC.

Defendant, Phifer Wire Products, Inc., for its Answer to Plaintiffs'

Complaint admits, denies and alleges as follows:<sup>2/</sup>

<sup>2/</sup> Individual Defendants Morgan, Green and Hartig have not been served with the Summons and Complaint in this action as of the date of this Answer. Defendant Phifer, therefore, answers solely on its own behalf. Phifer's counsel will also be representing the individual Defendants should service be properly made on the individual Defendants and, therefore, undersigned counsel requests Plaintiff to direct any relevant notices to said counsel.

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## ADMISSIONS AND DENIALS

1  
2           1.     Defendant admits the allegations of Paragraph 1, the first sentence  
3 of Paragraph 2 and Paragraphs 7, 13, and 19. Defendant also admits the allegations of  
4 Paragraphs 37 - 39 of Plaintiffs' Complaint, with the exception that Defendant Green is  
5 the Western Regional Sales Manager for Phifer-Western, rather than the District Sales  
6 Manager as alleged in Paragraph 38. Defendant further admits the allegation of  
7 Paragraph 40 that Charles Morgan has published statements to third parties about and  
8 concerning Plaintiffs Suntrol and Edwards.  
9

10           2.     As to the allegations of Paragraph 3, Defendant admits that Charles  
11 Morgan and Lupe Morgan (designated in Complaint as Jane Doe Morgan) are husband  
12 and wife and are residents of Tuscaloosa, Alabama, that Defendant Charles Morgan was  
13 acting within the course and scope of his employment with Phifer, as its Executive Vice  
14 President and Corporate Counsel, and that within the meaning of Alabama law, Charles  
15 Morgan was acting for and on behalf of his marital community. Defendant denies that  
16 Morgan caused an event to occur within the State of Arizona sufficient to confer  
17 personal jurisdiction on this Court over Charles and Lupe Morgan.  
18

19           3.     As to the allegations of Paragraph 4, Defendant admits that Diane  
20 Green is a single woman and a resident of the State of California and, at all material  
21 times, was acting within the course and scope of her employment with Phifer, as its  
22 District Sales Manager. Defendant denies that Green caused an event to occur in  
23 Maricopa County, Arizona sufficient to confer personal jurisdiction over Ms. Green  
24 individually.  
25

26           4.     As to the allegations of Paragraph 5, Defendant admits that Joel  
Hartig is a single man and resident of the State of California and, at all material times,  
was acting within the course and scope of his employment with Phifer as Sales

1 Representative. Defendant denies that Hartig caused an event to occur in Maricopa  
2 County, Arizona sufficient to confer personal jurisdiction over Hartig individually.

3 5. Defendant lacks sufficient knowledge or information by which to  
4 admit or deny the allegations of Paragraphs 6, 20, 31 and 48 and, therefore, denies the  
5 same.

6 6. As to the allegations of Paragraph 8, Defendant admits that some  
7 Phifer SunScreen manufactured between January 1988 and July 1989 was defective in  
8 that it deteriorated prematurely under certain conditions such as exposure to intense  
9 direct sunlight, and that an odor was sometimes associated with this deterioration process  
10 and that Suntrol with the assistance and cooperation of Phifer has been involved in a  
11 replacement program of defective SunScreen since approximately 1989. Defendant  
12 denies all other allegations of Paragraph 8 of Plaintiffs' Complaint.

13 7. As to the allegations of Paragraph 9, Defendant admits that Suntrol  
14 has replaced approximately 450,000 - 500,000 square feet of Phifer SunScreen without  
15 charge to the ultimate consumer or builder, but expressly denies any suggestion or  
16 implication that Suntrol honestly and fully cooperated with Phifer's warranty replacement  
17 program or that all SunScreen replaced was defective or within the replacement program.

18 8. As to the allegations of Paragraph 10, Defendant admits that  
19 Suntrol and Phifer had a procedure that was to be followed for replacement of defective  
20 SunScreen; that under this procedure Suntrol was to locate and identify defective  
21 SunScreen and inform Phifer; that after May 1990, Phifer was to inspect defective  
22 SunScreen and preapprove its replacement; that property owners were to be notified of  
23 the defective SunScreen and that in certain instances beginning in 1992, if a resident had  
24 a defective SunScreen, all SunScreens on that residence were to be replaced in order to  
25 avoid the necessity of future trips and to ensure the replacement of all defective  
26 SunScreen. Defendant denies all other allegations or inferences of Paragraph 10 and

1 expressly denies that Plaintiffs followed proper procedure in all regards.

2 9. As to the allegations of Paragraphs 14-18, 25 and 27, Defendant  
3 admits that Suntrol and Phifer entered into a contract, dated January 29, 1993 and  
4 alleges that the contract speaks for itself. Defendant admits all allegations that are  
5 consistent with the terms of said contract and denies all others.

6 10. As to the allegations of Paragraph 21, Defendant admits that A.R.S.  
7 § 47-2103 requires Phifer to act in good faith and deal honestly in fact and observe  
8 reasonable commercial standards of fair dealing in the trade and it affirmatively alleges  
9 that it so acted in very respect. Defendant denies all other allegations of Paragraph 21.

10 11. As to the allegations of Paragraph 22, Defendant admits that on or  
11 about March, 1993, Phifer suspended and subsequently terminated Suntrol's authority to  
12 perform any warranty replacement work on Phifer's behalf, upon Phifer's receiving  
13 evidence that Suntrol had submitted false and fraudulent claims to Phifer for warranty  
14 replacement work. Defendant denies all other allegations of Paragraph 22.

15 12. As to the allegations of Paragraphs 23 and 29, Defendant admits  
16 that this matter arises out of contract within the meaning of A.R.S. § 12-341.01.  
17 Defendant denies all other allegations of said Paragraphs.

18 13. Defendant denies the allegations of Paragraphs 44 - 47 of Plaintiffs'  
19 Complaint, with the exception that Defendant admits the allegation in Paragraph 45 that  
20 SunScreens are "merchandise" as that term is defined in A.R.S. § 44-1521.

21 14. Defendant denies each and every other material allegation of  
22 Plaintiffs' Complaint not expressly admitted or otherwise pleaded to.

23 15. Defendant alleges that this matter arises out of contract within the  
24 meaning of A.R.S. § 12-341.01 and the contract between Plaintiffs and Defendant Phifer,  
25 and that Defendant, therefore, is entitled to an award of reasonable costs and attorneys'  
26

1 fees.

2 AFFIRMATIVE DEFENSES

3 16. Defendant Phifer alleges by way of affirmative defense that the  
4 Summons issued and served in this action is insufficient in that service was not delivered  
5 to a partner, officer, managing or general agent, or to any other agent authorized to  
6 receive service of process.

7 17. Defendant alleges by way of affirmative defense that the Plaintiffs  
8 lack standing to assert claims and/or seek relief on behalf of Phifer or Suntrol customers,  
9 consumers, users or purchasers of SunScreen products and therefore fail to state a claim  
10 under the Arizona Consumer Fraud and/or RICO statutes upon which relief can be  
11 granted.

12 18. Defendant alleges by way of affirmative defense that any alleged  
13 breach or non-performance of contractual terms or obligations by Defendant is excused  
14 due to Plaintiffs' prior material breaches, false claims, fraudulent conduct and  
15 misrepresentations.

16 19. Defendant alleges by way of affirmative defense that any statements  
17 or communications made by Defendant concerning Plaintiffs were true and/or reasonably  
18 believed to be true at the time made and are therefore not actionable.

19 20. Defendant alleges by way of affirmative defense that Plaintiffs fail to  
20 state a claim upon which relief can be granted.

21 WHEREFORE, having fully defended, Defendant prays that the Complaint  
22 be dismissed with prejudice, that Plaintiffs take nothing thereby, and that Defendant be  
23 awarded the cost and expenses incurred herein, including reasonable attorneys' fees, and  
24 for such other and further relief as the Court deems just in the premises.

25 COUNTERCLAIM BY PHIFER WIRE PRODUCTS, INC.

26 Defendant/Counterclaimant Phifer Wire Products, Inc., for its Counterclaim

1 against the Plaintiffs/Counterdefendants Suntrol Reflective Coatings, Inc. and John N.  
2 Edwards, in this action, alleges as follows:

3 1. Phifer Wire Products, Inc. ("Phifer") is incorporated in the State of  
4 Alabama, with its principal place of business in Alabama and does business throughout  
5 the United States, including the State of Arizona and Maricopa County, Arizona. Phifer  
6 manufactures and sells protective solar screening under the trade name "SunScreen" and  
7 other screening products throughout the United States including Maricopa County,  
8 Arizona.

9 2. Suntrol Reflective Coating, Inc., ("Suntrol") upon information and  
10 belief is an Arizona corporation with its principal place of business in Arizona, that at all  
11 times relevant to this action conducted business, and continues to conduct business,  
12 within Maricopa County and the State of Arizona.

13 3. John N. Edwards, upon information and belief, is a single man who  
14 at all times relevant to this action resided and continues to reside within Maricopa  
15 County and the State of Arizona.

16 4. Counterdefendants Suntrol and Edwards have engaged in acts within  
17 the State of Arizona that have caused the events which give rise to this cause of action to  
18 occur. Counterclaimant Phifer seeks damages in excess of the jurisdictional amount and  
19 this court has subject matter jurisdiction over this action and venue is proper within  
20 Maricopa County.

21 5. Phifer is the leading manufacturer and supplier of solar screening  
22 material in the United States. Counterclaimant's "SunScreen" solar screening product is a  
23 polymer coated fiberglass screening material that is utilized in window screens in  
24 residential and commercial buildings for the purpose of blocking sunlight so as to reduce  
25 solar intensity and heat entering the building. SunScreen solar screening is used  
26 extensively throughout the State of Arizona as an aid in reducing energy costs and is

1 strongly recommended for use by Arizona utilities.

2           6.     Suntrol has long marketed and installed SunScreen product in the  
3 State of Arizona. Suntrol markets SunScreen through contractors and builders as well as  
4 directly to homeowners and businesses. In the course of its relationship with Phifer,  
5 Suntrol has sold and installed thousands of SunScreen solar screens in homes and  
6 businesses within the State of Arizona over the past seventeen (17) years.

7           7.     John N. Edwards ("Edwards") is president and the major  
8 shareholder of Suntrol and directs and is responsible for the day to day operations, policy  
9 and conduct of Suntrol's business.

10           8.     In approximately January, 1988, Phifer began using a new chemical  
11 formula for the polymer coating on its SunScreen product. SunScreen material  
12 manufactured in 1988 and the first half of 1989 utilized this new formula polymer  
13 coating.

14           9.     Phifer subsequently discovered that the new formula polymer  
15 coating developed a tendency to deteriorate under certain conditions of direct and  
16 intense exposure to sunlight so that, on some installations, the screening would discolor  
17 prematurely due to a weakness in the ultraviolet ("UV") or heat stabilizer and the  
18 plastisol formula used. In some cases an unpleasant odor would develop and the  
19 screening material itself would suffer premature weathering and/or physical deterioration.  
20

21           10.    Phifer upon discovering the problem with the new plastisol formula,  
22 discontinued its use so that the problems were primarily limited to those screens installed  
23 in the years 1988 and 1989.

24           11.    Phifer provides a limited warranty on all its SunScreen product for a  
25 period of five years from installation against rusting, denting, shrinking, and to remain  
26 dimensionally stable when properly installed. This warranty applies to the SunScreen  
material only and does not apply to wear caused by normal weathering, acts of God,

1 misuse or abuse. In the event any SunScreen material proves defective in an area  
2 covered by the guarantee, Phifer warrants to replace, free of charge, the defective  
3 material but Phifer's warranty does not cover cost of installation, labor or any other  
4 charges. See, Phiferglass SunScreen Warranty, attached hereto as Exhibit "A" and  
5 incorporated herein by this reference.

6           12. Upon discovery that the 1988 and 1989 vintage SunScreen material  
7 was subject to premature discoloration and weaknesses, Phifer committed to replace  
8 SunScreen material so affected that did not perform as guaranteed. Despite the fact that  
9 its warranty did not require it to do so, Phifer committed to a "Defective SunScreen  
10 Replacement Program" whereby all solar screening installed in 1988 and 1989 in which  
11 the coating deteriorated prematurely would be replaced at no cost to the building owner  
12 and/or resident. Upon receiving any consumer complaint, Phifer would first ask the  
13 dealer or window contractor responsible for the original sale to do the replacement at  
14 Phifer's expense. If that dealer or contractor was unable or preferred not to do such  
15 work, Phifer would locate and pay another installer to do the replacement.

16           13. Since 1989, Suntrol has been actively involved in the Defective  
17 SunScreen Replacement Program referenced in Paragraph 12. Before 1993, Suntrol  
18 purchased or received Phifer SunScreen, via distributors, to replace defective SunScreen.  
19 Beginning January 29, 1993, Suntrol purchased SunScreen directly from Phifer. The  
20 warranty replacement was to be done at no charge to the ultimate consumer or building  
21 owner so long as it could be shown that the defective material was installed after 1987  
22 and the material had been manufactured by Phifer between January 1988 and July 1989,  
23 the period during which SunScreen was coated with the problem polymer.  
24

25           (4) During the period since 1989 Suntrol submitted claims to and was  
26 compensated by Phifer for replacement of approximately 450,000 square feet of allegedly  
defective SunScreen.